

Bill No. 24-13
Concerning: Streets and Roads -
Authorization of Construction -
Amendments
Revised: 10-8-13 Draft No. 10
Introduced: July 30, 2013
Enacted: October 8, 2013
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Floreen, and Riemer

AN ACT to:

- (1) require the County Executive to hold a public hearing before authorizing an assessment of costs for constructing a road;
- (2) repeal the requirement that the Executive authorize the construction of a road before beginning construction of the road;
- (3) require the Director of Transportation to hold a hearing to receive comments on the design of a road before beginning construction of the road; and
- (4) generally amend the law governing the construction of streets and roads.

By amending

Montgomery County Code
Chapter 49. Streets and Roads
Sections 49-52, 49-53, and 49-54

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 49-52, 49-53, and 49-54 are amended as follows:**

2 **49-52. An assessment of costs for road [Road] construction to be authorized by**
 3 **County Executive; Council to assess benefits.**

4 (a) The County must not [build] assess the cost of constructing any road as
 5 a benefit to adjacent property unless the [County] Executive has issued
 6 an order authorizing the [construction] assessment. After the Executive
 7 has authorized the [road] assessment, the County Council may assess
 8 the cost of construction by resolution as a benefit to all property
 9 adjacent to the road's right-of-way and specially benefited by its
 10 construction as provided in this Section.

11 * * *

12 **49-53. Public hearing; notice.**

13 (a) Before [any] an assessment for road construction [or assessment] is
 14 authorized, the County Executive or [[a]] the Executive's designee must
 15 hold a public hearing. Any person who would be subject to an
 16 assessment or otherwise affected by the location or construction of the
 17 road is entitled to be heard at the hearing. Notice of the hearing must be
 18 sent by certified or registered mail, at least 2 weeks before the scheduled
 19 date of the hearing, to the owners of each property that would be subject
 20 to an assessment, as listed in the records of the Department of Finance.

21 [[* * *]]

22 (b) Each notice issued under [[this Section]] subsection (a) must contain:

- 23 (1) [[The]] the time and place of the hearing;
- 24 (2) [[The]] the location of the construction which is the subject of the
 25 hearing;
- 26 (3) [[The]] the extent and kind of construction intended;
- 27 (4) [[The]] the type of materials to be used;

(5) ~~[[The]]~~ the estimated cost of construction; and

(6) ~~[[The]]~~ the location of the real property that will be benefited by the construction.

(c) A summary of the notice provided for in ~~[[this Section]]~~ subsection (a) must be published twice in a newspaper of general circulation in the County before the scheduled date of the hearing. The summary must tell where a full copy of the notice may be obtained.

(d) Before beginning construction of any road, the Director of Transportation or the Director's designee must hold a public hearing to receive comments on the proposed design of the road.

~~[[d)]]~~ (e) ~~[[A public hearing]]~~ The Director need not ~~[[be held]]~~ hold a hearing under ~~[[this Section]]~~ subsection (d) before a sidewalk or shared use path is constructed if:

(1) the sidewalk or path can be constructed entirely in one or more existing public rights-of-way without a detailed engineering design;

(2) (A) a civic association, homeowner's association, or other organization, which includes a substantial number of owners of property located on the proposed route of the sidewalk or path, has filed a notice of its support for the sidewalk or path with the Executive or a designee; or

(B) if no such organization has filed a notice of support, a petition signed by a majority of owners of property located on the proposed route of the sidewalk or path has been filed with the Executive or a designee; and

(3) the Executive finds, after the Executive's designee has given notice to and met with residents of the area, that no significant

controversy has arisen that would require a public hearing to be held.

49-54. Authorization of an assessment of costs for construction; recommendation of assessments to Council.

- (a) If, after the hearing[[, if any,]] required by Section 49-53(a) is held, the [County] County Executive finds that the public interest requires [all or part of any road construction project] the assessment under consideration to be carried out, the Executive must authorize the [road to be built] assessment as required in this Chapter.
- (b) As soon as practicable after the Executive authorizes [the road] an assessment of costs for road construction under this Section, [[and after the hearing, if required, is held under Section 49-53,]] the [County] Executive must forward to the [County] County Council a written report recommending any proposed assessments based on the estimated cost of building the road. The report must describe the work to be done and state, with particularity, what portion of the cost of the construction, if any, should be paid by the adjacent properties and what portion, if any, of the cost should be paid by the County under this Chapter.
- (c) The recommendations must be based on the actual costs of publishing notices, conducting hearings, advertising for bids, and engineering, and the anticipated costs of financing to be incurred before the Council adopts the assessment resolution. Each cost assessment must be computed on the basis of linear frontage of adjacent properties, except as otherwise provided in this Chapter. The report must also estimate the dollar amount of the cost share to be paid by adjacent properties.

80 [(d) Prior to beginning construction of any road, the Director of
81 Transportation, or his or her designee, must hold a public hearing to
82 receive comments on the proposed design of the road.]]

83 *Approved:*

84 Nancy Navarro 10/9/13
Nancy Navarro, President, County Council Date

85 *Approved:*

86 _____
 Isiah Leggett, County Executive Date

87 *This is a correct copy of Council action.*

Linda M. Lauer, Clerk of the Council
Date _____